



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

870770001

MAY 21 2004

PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Mr. B. Mark Hausman, Counsel
Chevron Products Company
Law Department
2300 Windy Ridge Pkwy, Suite 800
Atlanta, GA 30339

RE: Lower Passaic River Study Area
Supplemental Request for Information Pursuant to 42 U.S.C. §§ 9601-9675

Dear Mr. Hausman:

The United States Environmental Protection Agency (EPA) has received your March 31, 2004 Response to its Request for Information pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601, *et seq.*, inquiring as to the generation, storage, treatment, transportation, and disposal methods of hazardous substances at the Getty Newark Terminal facility located at 86 Doremus Avenue in Newark, New Jersey, which could have contributed contamination to the Lower Passaic River Study Area.

This supplemental Information Request is to follow up on certain of your responses that were incomplete as well as to request copies of documents that should have been submitted with your original response. We encourage you to give this matter your immediate attention. We request that you provide a complete and truthful response to the attached Supplemental Request for Information **within 10 calendar days** of your receipt of this letter.

As noted in the previous Information Request, compliance with this Supplemental Request for Information is required by law. In preparing your response to this Supplemental Request for Information, please follow the instructions provided in Attachment A. When you have prepared your response to the Supplemental Request for Information, contained in Attachment B, please sign and have notarized the enclosed "Certification of Answers to Supplemental Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. Section 9604, authorizes EPA to pursue penalties for failure to comply or for failure to respond adequately to the Supplemental Request for Information.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold from EPA the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions Section in Attachment A, including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by our Supplemental Request for Information, you must immediately turn over the additional or different information to EPA.

This Supplemental Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501 et seq.

Your response to this Supplemental Request for Information should be postmarked or received by EPA within 10 business days of your receipt of this letter. Your response should be mailed to:

Elizabeth Butler, Remedial Project Manager
Emergency and Remedial Response Division
U.S. Environmental Protection Agency
290 Broadway - 19th Floor
New York, New York 10007-1866

with a copy to:

Kedari Reddy, Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway - 17th Floor
New York, New York 10007-1866

If you wish to discuss this further, please contact Ms. Elizabeth Butler, Remedial Project Manager, at (212) 637-4396 or Ms. Kedari Reddy, Assistant Regional Counsel, at (212) 637-3106. Please note that all communications from attorneys should be directed to Ms. Reddy.

We appreciate and look forward to your prompt response to this information request.

Sincerely yours,



Raymond J. Basso, Strategic Integration Manager
Emergency and Remedial Response Division

Enclosures

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ATTACHMENT A

INSTRUCTIONS FOR RESPONDING TO SUPPLEMENTAL REQUEST FOR INFORMATION

A. Directions

1. In answering these questions, every source of information to which you have access should be consulted, regardless of whether the source is in your immediate possession or control. All documents or other information, including records of all types of manufacturing, treatment, transportation or disposal operations, in your possession or in the possession of the company should be consulted.
2. A complete and separate response should be given for each question and subpart. Provide all documents that relate to each question. For each question contained in this letter, if information or documents responsive to this request are not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
3. Identify each answer with the number of the question and the subpart to which it responds. For each document produced in response to this Supplemental Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
4. Provide responses to the best of your ability, even if the information sought was never put in writing or if the written documents are no longer available. Consult with all present and past employees and agents of your company whom you have reason to believe may be familiar with the matter to which the question pertains.
5. In answering each question, identify each individual and any other source of information (including documents) that were consulted in the preparation of the response to the question.
6. If you have reason to believe that an individual other than one employed by your company may be able to provide additional details or documentation in response to any question, state that person's name, last known address, phone number and the reasons for your belief.
7. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages and all recipients of the documents with their addresses.
8. If anything is omitted from a document produced in response to the Supplemental Request for Information, state the reason for, and the subject matter of, the omission.
9. If you are unable to give a detailed and complete answer, or to provide any of the information or documents requested, indicate the reason for your inability to do so.

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10. Sign and notarize the Certification of Answers where indicated.
11. Confidential Information The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), Section 3007(b) of RCRA, 42 U.S.C. §6927(b), and 40 CFR §2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

- A. the portions of the information alleged to be entitled to confidential treatment;
- B. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- C. measures taken by you to guard against the undesired disclosure of the information to others;
- D. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- E. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- F. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp, or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents, is in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

B. Definitions

1. The term **"you"** shall mean the addressee of this Supplemental Request for Information, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns or agents.
2. As used herein, the terms **"Company"** or **"your Company"** refer not only to your Company as it is currently named and constituted, but also to all predecessors or successors in interest and all subsidiaries, divisions, affiliates and branches of your Company and all of its predecessors or successors in interest. The term **"Company"** is not limited to corporations.
3. The term **"Site"** shall mean the Diamond Alkali Superfund site, including the Diamond Alkali plant located at 80 and 120 Lister Avenue in Newark, NJ, and the Study Area encompassing the 17-mile stretch of the Lower Passaic River and its tributaries from Dundee Dam to Newark Bay, and the areal extent of contamination.
4. The terms **"facility"**, **"hazardous substance"**, and **"person"**, shall have the meanings set forth in Section 101(9), (14), and (21) of CERCLA, 42 U.S.C. §9601(9), (14), and (21) respectively.
5. The terms **"hazardous waste"**, **"disposal"** and **"storage"** shall have the meanings contained in Sections 1004(5), (3) and (33) of Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Sections 6903(5), (3) and (33), respectively.
6. The term **"pollutant or contaminant"** shall have the same definition as that contained in Section 101(33) of CERCLA and includes any mixtures of such pollutants or contaminants with any other substances.
7. The term **"document"** and **"documents"** shall include any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in the company's possession, custody, or control or known by the company to exist, including originals and all non-identical copies.
8. The term **"material"** or **"materials"** shall include any and all objects, goods, substances, or matter of any kind, including, but not limited to, wastes.
9. The term **"release"** shall have the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
10. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or RCRA, in which case the statutory definitions shall apply.

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ATTACHMENT B

SUPPLEMENTAL REQUEST FOR INFORMATION

The United States Environmental Protection Agency ("EPA") is investigating the release of hazardous substances into the Lower Passaic River. Please provide the information requested below, including copies of all available documentation that support your answers.

- 1) Question #3 in the original Request for Information asked for a list of specific compounds contained in specified petroleum products if "yes" was checked for polyaromatic hydrocarbons. In your response "yes" was checked, therefore, provide that list.
- 2) Question #6(c)(iv) in the original Request for Information asked where the discharges from the catch basins were released and whether it was treated. Your response only provided information pertaining to the East Yard. Provide a response relative to the West Yard, and give particulars on the discharge pathway for the drainage swale in Area A.
- 3) Question #8 in the original Request for Information stated the following: "Please identify any leaks, spills, explosions, fires or other incidents of accidental material discharge that occurred at the facility during which or as a result of which any hazardous substances, including, but not limited to, the substances listed in response to item (3) or (4), were released on the property, into the waste water or storm drainage system at the facility or to the Passaic River including its tributaries. Provide any documents or information relating to these incidents, including the ultimate disposal of any contaminated materials." Your response only provided information pertaining to the Passaic River. Provide a response to the question as it pertains to leaks, spills, or discharges on the property or into the storm drainage system at the facility, along with the documentation. In particular, provide any documents or information relating to the two chemical mixture discharges and two waste oil discharges listed on Table 3 of the August 31, 1999 letter from Carpenter, Bennett, and Morrissey (Texaco's attorneys) to NJDEP (copy of Table 3 attached). The specific discharge numbers are: 96-4-4-1354-17, 97-2-21-1736-56, 97-2-25-1437-09, and 97-8-19-1115-25.
 - a) Question #8(a) in the original Request for Information stated the following: "Please provide the results of any sampling of the soil, water, air or other media after any such incident and before and after clean-up. Please provide in this information all sampling performed for or by NJDEP or EPA." Your response stated that this question was not applicable. However, since your response to question #8 was incomplete, this question may now be applicable. Therefore, provide a full response.
- 4) a) Question #12(b) in the original Request for Information asked for documents pertaining to the sampling of environmental media at the facility. Your response to question #12(a) stated that information is available regarding ISRA Case #E84455. You are required to provide those documents at this time.
- 5) What is the nature of any corporate relationship between your Company, including any

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predecessors or successors in interest and Power Test Realty Company and Power Test of New Jersey, Inc.?

- 6) You failed to provide a signed and notarized "Certification of Answers to Request for Information" with your original response dated March 31, 2004. Please provide a certification for the original response as well as a Certification for your supplemental response.

CERTIFICATION OF ANSWERS TO SUPPLEMENTAL REQUEST FOR INFORMATION

State of _____:

County of _____:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Supplemental Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that my company is under a continuing obligation to supplement its response to EPA's Supplemental Request for Information if any additional information relevant to the matters addressed in EPA's Supplemental Request for Information or the company's response thereto should become known or available to the company.

NAME (print or type)

TITLE (print or type)

SIGNATURE

Sworn to before me this ____ day of _____ 20__

Notary Public Signature

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Table 3 – Reported Discharges
Getty Newark Terminal – ISRA Case # E84455

<u>Discharge #</u>	<u>Type/Volume</u>	<u>Location</u>
1. 87-02-02-1708	Oil / Vol. Not Specified	Not Available
2. 88-07-22-0546	Gasoline / 2,000 gal.	Tank Basin #5
3. 88-07-24-1023	Gasoline / Vol. Not Specified	Not Available
4. 95-2-7-1147-54	Misc. Oil / Vol. Not Specified	Not Available
5. 96-4-4-1354-17	Chem. Mix / Vol. Not Specified	Not Available
6. 96-4-16-1257-28	Diesel / 50 gal.	Not Available
7. 97-1-18-0054-02	Gasoline / 8,000 gal.	Tank Basin #5
8. 97-2-21-1337-13	Heating Oil / Vol. Not Specified	UST in East Yard
9. 97-2-21-1736-56	Waste Oil / Vol. Not Specified	UST in West Yard
10. 97-2-25-1437-09	Chem. Mix/ Vol. Not Specified	Not Available
11. 97-8-19-1115-25	Waste Oil / Vol. Not Specified	Not Available
12. 11328	Fuel Oil #2/ 2,000 gal.	Not Available
13. 114439 (4/16/92)	Oil / Vol. Not Specified	Not Available
14. Oct. 1, 1994*	Gasoline / ~ 10 gal	Not Available

Sources:

Jan. 1998 Environmental Data Base Review - Vista Information Solutions

** Sept. 13, 1996 Letter From Getty to Texaco*